

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DONTAE L. JONES,

Petitioner,

v.

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CIVIL ACTION NO. 1:12CV165  
(Judge Keeley)

TERRY O'BRIEN

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On October 25, 2012, the pro se petitioner, Dontae L. Jones ("Jones") filed a petition pursuant to 28 U.S.C. § 2241. The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a report and recommendation ("R&R") in accordance with LR PL P 2. On that same date, Jones received a notice of deficient pleading, to which he never responded. (Dkt. No. 5). On November 5, 2012, the magistrate judge granted Jones' motion to proceed in forma pauperis. (Dkt. No. 8).

On December 17, 2012, Magistrate Judge Seibert issued an Opinion and R&R, in which he recommended that Jones' § 2241 petition be denied and dismissed with prejudice. (Dkt. No. 11). The magistrate judge determined that Jones is not entitled to file the instant § 2241 petition because he has not shown, under In re Jones, 226 F.3d 328 (4<sup>th</sup> Cir. 2000), that § 2255 is an inadequate or ineffective remedy.

The R&R also specifically warned Jones that his failure to object to the recommendation would result in the waiver of any

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appellate rights he might otherwise have on this issue. Jones did not file any objections, and thus waived his appellate rights in this matter, and relieved the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997). Consequently, finding no clear error, the Court:

- **ADOPTS** the R&R (dkt. no. 11);
- **DENIES** the § 2241 petition (dkt. no 1) and dismiss the petition **WITH PREJUDICE**;
- **ORDERS** that this case be stricken from the Court's docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: February 21, 2013.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE